



USAID
FROM THE AMERICAN PEOPLE

Acquisition & Assistance Policy Directive (AAPD)

From the Director, Office of Acquisition & Assistance Issued: October 24, 2018

AAPD 18-06

CLASS DEVIATION FROM THE FAR SUBPART 17.5 ON INTERAGENCY ACQUISITION.
(Class Deviation from the FAR – no. M/OAA-DEV-FAR-19-01c).

Subject Category: Acquisition Management
Type: POLICY

AAPDs provide information of significance to all agency personnel and partners involved in the Acquisition and Assistance process. Information includes (but is not limited to): advance notification of changes in acquisition or assistance regulations; reminders; procedures; and general information. Also, AAPDs may be used to implement new requirements on short-notice, pending formal amendment of acquisition or assistance regulations.

AAPDs are EFFECTIVE AS OF THE ISSUED DATE unless otherwise noted in the guidance below; the directives remain in effect until this office issues a notice of cancellation.

This AAPD: ☒ Is New ☐ Replaces/ ☐ Amends CIB/AAPD

Applicable to: ☐ Existing awards; ☐ Modification required

☐ No later than

☐ As noted in guidance below

☐ All applicable RFPs and new awards issued after the effective date of this AAPD.

☐ Other

Precedes change to:

☐ AIDAR Part(s) Appendix

☐ USAID Automated Directives System (ADS)

☐ Code of Federal Regulations

☒ Federal Acquisition Regulations

Sections 4.603, 8.404, 17.502-1 and 35.017

☐ No change to regulations

☐ New or Revised Provision/Clause Provided Herein: If checked, scheduled update to GLAAS: As noted in guidance below

/s/

Mark Walther

I. BACKGROUND:

FAR 17.502-1(a) requires that COs make the best procurement approach determination prior to:

- 1) Requesting that another agency conduct an acquisition on USAID's behalf; or
- 2) Placing an order against another agency's indefinite-delivery contract (including orders above \$550,000 under the Federal Supply Schedule).

Section 875 of the FY 2019 NDAA has removed this requirement from the legislation ((Public Law 110-417). The FAR case 281-015 has been established to implement these changes in the FAR. M/OAA Director has approved the FAR class deviation M/OAA-DEV-FAR-19-01c (See attachment 1) to relieve COs from the requirement to prepare the best procurement approach determination in advance of the FAR changes. The deviation is effective for two years from the date of the issuance of this AAPD unless rescinded earlier when the requirement is incorporated into the FAR.

II. REQUIRED ACTIONS:

With the issuance of this deviation COs no longer need to prepare best procurement approach determinations when using an interagency acquisition.

As with other class deviations, please remember to track use of the deviation as stipulated in AIDAR 701.470(f). Semiannual reports should be submitted to the PSC Mailbox at pscpolicymailbox@usaid.gov with a copy to Jacqueline Lewis-Taylor at jltaylor@usaid.gov.

III. POINT OF CONTACT:

COs may direct their questions about this AAPD to the A&A Policy Mailbox at <https://pages.usaid.gov/M/OAA/aa-policy-mailbox>.

Attachment 1 – FEDERAL ACQUISITION REGULATION (FAR) DEVIATION TEXT

Baseline is FAC 2005-100, published in the Federal Register on August 22, 2018.

Deviations are shown by **[bracketed bold additions]** and ~~strikeouts~~.

PART 4—ADMINISTRATIVE MATTERS

Subpart 4.6—Contract Reporting

4.603 Policy.

(M/OAA-DEV-FAR-19-01c)

(c) Agencies awarding assisted acquisitions or direct acquisitions must report these actions and identify the Program/Funding Agency and Office Codes from the applicable agency codes maintained by each agency at FPDS. These codes represent the agency and office that has provided the predominant amount of funding for the contract action. For assisted acquisitions, the requesting agency will receive socioeconomic credit for meeting agency small business goals, where applicable. Requesting agencies shall provide the appropriate agency/bureau component code as part of the written interagency agreement between the requesting and servicing agencies (see 17.502-1(**[a]b**)(1)).

PART 8—REQUIRED SOURCES OF SUPPLIES AND SERVICES

Subpart 8.4—Federal Supply Schedules

8.404 Use of Federal Supply Schedules.

(M/OAA-DEV-FAR-19-01c)

(b)(1) ***

(2) For orders over \$550,000, *see* subpart 17.5 for additional requirements for interagency acquisitions. ~~For example, the requiring agency shall make a determination that use of the Federal Supply Schedule is the best procurement approach, in accordance with 17.502-1(a).~~

PART 17—SPECIAL CONTRACTING METHODS

Subpart 17.5—Interagency Acquisitions

17.502 Procedures.

17.502-1 General.

(M/OAA-DEV-FAR-19-01c)

~~(a) Determination of best procurement approach—(1) Assisted acquisitions.~~ Prior to requesting that another agency conduct an acquisition on its behalf, the requesting agency shall make a determination that the use of an interagency acquisition represents the best procurement approach. As part of the best procurement approach determination, the requesting agency shall obtain the concurrence of the requesting agency's responsible contracting office in accordance with internal agency procedures. At a minimum, the determination shall include an analysis of procurement approaches, including an evaluation by the requesting agency that using the acquisition services of another agency—

~~(i) Satisfies the requesting agency's schedule, performance, and delivery requirements (taking into account factors such as the servicing agency's authority, experience, and expertise as well as customer satisfaction with the servicing agency's past performance);~~

~~(ii) Is cost effective (taking into account the reasonableness of the servicing agency's fees); and~~

~~(iii) Will result in the use of funds in accordance with appropriation limitations and compliance with the requesting agency's laws and policies.~~

~~(2) Direct acquisitions.~~ Prior to placing an order against another agency's indefinite delivery vehicle, the requesting agency shall make a determination that use of another agency's contract vehicle is the best procurement approach and shall obtain the concurrence of the requesting agency's responsible contracting office. At a minimum, the determination shall include an analysis, including factors such as:

~~(i) The suitability of the contract vehicle;~~

~~(ii) The value of using the contract vehicle, including—~~

~~(A) The administrative cost savings from using an existing contract;~~

~~(B) Lower prices, greater number of vendors, and reasonable vehicle access fees; and~~

~~(iii) The expertise of the requesting agency to place orders and administer them against the selected contract vehicle throughout the acquisition lifecycle.~~

~~(b) Written agreement on responsibility for management and administration—(1) Assisted acquisitions.~~ (i) Prior to the issuance of a solicitation, the servicing agency and the requesting agency shall both sign a written interagency agreement that establishes the general terms and conditions governing the relationship between the parties, including roles and responsibilities for acquisition planning, contract execution, and administration and management of the contract(s) or order(s). The requesting agency shall provide to the servicing agency any unique terms, conditions, and applicable agency-specific statutes, regulations, directives, and other applicable requirements for incorporation into the order or contract. In the event there are no agency unique requirements beyond the FAR, the requesting agency shall so inform the servicing agency contracting officer in writing. For acquisitions on behalf of the Department of Defense, also see subpart 17.7. For patent rights, see 27.304-2. In preparing interagency agreements to support assisted

acquisitions, agencies should review the Office of Federal Procurement Policy guidance, Interagency Acquisitions, available at https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/assets/OMB/procurement/interagency_acq/iac_revised.pdf.

(ii) Each agency's file shall include the interagency agreement between the requesting and servicing agency, and shall include sufficient documentation to ensure an adequate audit consistent with 4.801(b).

(2) *Direct acquisitions.* The requesting agency administers the order; therefore, no written agreement with the servicing agency is required.

([b]e) *Business-case analysis requirements for multi-agency contracts and governmentwide acquisition contracts.* In order to establish a multi-agency or governmentwide acquisition contract, a business-case analysis must be prepared by the servicing agency and approved in accordance with the Office of Federal Procurement Policy (OFPP) business case guidance, available at <https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/procurement/memo/development-review-and-approval-of-business-cases-for-certain-interagency-and-agency-specific-acquisitions-memo.pdf>. The business-case analysis shall—

(1) Consider strategies for the effective participation of small businesses during acquisition planning (see 7.103(u));

(2) Detail the administration of such contract, including an analysis of all direct and indirect costs to the Government of awarding and administering such contract;

(3) Describe the impact such contract will have on the ability of the Government to leverage its purchasing power, *e.g.*, will it have a negative effect because it dilutes other existing contracts;

(4) Include an analysis concluding that there is a need for establishing the multi-agency contract; and

(5) Document roles and responsibilities in the administration of the contract.

PART 35—RESEARCH AND DEVELOPMENT CONTRACTING

35.017 Federally Funded Research and Development Centers.

35.017-3 Using an FFRDC.

(M/OAA-DEV-FAR-19-01c)

(b) Where the use of the FFRDC by a nonsponsor is permitted by the sponsor, the sponsor shall be responsible for compliance with paragraph (a) of this subsection.

(1) The nonsponsoring agency shall ~~prepare a determination in accordance with 17.502-1(a) and provide the documentation required by 17.503(e) to the sponsoring agency.~~

(2) When a D&F is required pursuant to 17.502-2(c), the nonsponsoring agency ~~may incorporate the determination required by 17.502-1(a) into [shall~~

prepare] the D&F and provide the documentation required by 17.503(e) to the sponsoring agency.

(3) When permitted by the sponsor, a Federal agency may contract directly with the FFRDC, in which case that Federal agency is responsible for compliance with part 6.
